

REMARKS

After entry of the amendment, claims 1-9 and 15-20 are pending. Claims 10-14 are cancelled in response to the restriction requirement issued in the Office Action dated June 16, 2004.

Applicants appreciate the Examiner's indication of the allowable subject matter of claims 3-5.

Claims 1, 2 and 6-9 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,364,095 to Easton et al.

The rejection of claims 1, 2 and 6-9 is respectfully traversed.

Rejections of the Claims Under 35 U.S.C. §102(b) Over Easton et al.

In section number 4 of the Office Action, the Examiner rejected claims 1, 2 and 6-9 under 35 U.S.C. §102(b) over Easton et al. (U.S. Patent No. 5,364,095).

As an initial matter, Applicants do not understand how the Examiner arrived at all of the dimensions and calculations that are applied to tube 14, as set forth in section number 4 of the Office Action. Applicants submit that Easton does not anticipate the claimed invention.

In particular, claim 1, as amended, recites a "tube having a **transverse** cross-section of *elongate shape*". This embodiment of the claimed invention is shown, for example, in Figure 4 of the specification. With regard to Easton, the only cross-section of bat 10 which could be considered as being *elongate* is the **longitudinal** cross-section, as shown in Figures 1 and 2. The **transverse** cross-sectional shape of bat 10, as shown in Figure 3, is, of course, *circular*. Applicants respectfully submit that it is unreasonable and inconsistent for the Examiner to take the position that bat 10 has a "cross-section of *elongate shape*," (emphasis added) in section number 4 of the Office Action, particularly when the measurements of bat 10 referred to and applied by the Examiner with respect to the claimed invention in section number 4 are based on a **transverse** cross-sectional area of bat 10, which is *circular*.

In view of the foregoing, Applicants respectfully submit that Easton does not anticipate claim 1, or claims 2 or 6-9 which depend therefrom.

Applicants also submit that the combination of elements recited in newly added claims 15-18 is directed to allowable subject matter at least by virtue of their dependency from claim 1. Applicants

Application No. 10/071,722
Response dated June 27, 2005
Reply to Office Action dated February 25, 2005

further submit that the combination of elements recited in independent claim 19, and claim 20 which depends therefrom, is also directed to allowable subject matter.

Applicants' representative (the undersigned) requested a telephone interview with Examiner Ragonese prior to the one month extension date of June 27, 2005 to discuss the rejections of the claims set forth in the February 25, 2005 Office Action. The Examiner indicated that she would not be able to conduct a telephone interview until June 28, 2005. In view of the foregoing, if the Examiner believes that Easton anticipates any of the presently pending claims as set forth in the present Amendment, she is earnestly requested to contact the undersigned prior to issuing the next correspondence.

Application No. 10/071,722
Response dated June 27, 2005
Reply to Office Action dated February 25, 2005

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees that may be required for entry of this Amendment, or credit any overpayment to deposit account no. 08-0219.

In the event that an extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to deposit account no. 08-0219.

Respectfully submitted,

WILMER CUTLER PICKERING HALE AND DORR LLP

A handwritten signature in black ink, appearing to read 'Gregory S. Discher', with a long horizontal flourish extending to the right.

Gregory S. Discher
Registration No. 42,488

1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1008
(703) 251-9729

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